

Testimony of

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Director of the Washington Office of
The Jewish Federations of North America**

House Ways and Means Subcommittee on Select Revenue Measures

Hearing on

Framework for Evaluating Certain Expiring Tax Provisions

June 8, 2012

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Summary: The Jewish Federations of North America urges the House Ways and Means Committee to make permanent and expand the current incentive in the tax code that permits tax-free rollover of individual retirement account dollars to charities (the “IRA Charitable Rollover”). As one of the nation’s largest philanthropic networks, we know first hand that targeted tax incentives such as the IRA Charitable Rollover result in increased contributions that translate into more dollars that can be spend for the overall social good. We strongly believe that if the IRA Charitable Rollover was made permanent and expanded as discussed below, it would result in even larger amounts of support flowing into the nonprofit sector, which would be especially beneficial as the Nation’s charities seek to fill the void left by decreasing government funding and increased demands for social services during this time of economic recovery. We believe that if Congress reviews the IRA Charitable Rollover using the objective criteria outlined at the hearing held on June 8, 2012, the provision will be judged worthy of inclusion as a permanent part of the income tax code.

Background: The Jewish Federations of North America (herein referred to as “JFNA”) is the national organization that represents and serves 157 Jewish Federations, their affiliated Jewish community foundations and 300 independent Jewish communities in more than 800 cities and towns across North America., The Jewish Federations and Network volunteers (collectively, the “JFNA System”) are the umbrella Jewish fundraising organizations and the central planning and coordinating bodies for an

extensive network of Jewish health, education and social services in their communities. Thus, the JFNA System represents over one thousand affiliated agencies and serves several million individuals throughout the country.

JFNA conducts an annual fundraising campaign that collectively raises almost \$1 billion system-wide each year from almost 500,000 donors. In addition, the endowment departments of Federations or their affiliated Jewish community foundations raise in excess of another \$1.25 billion each year through charitable vehicles including donor-advised funds, supporting organizations, (together referred to a “participatory funds”), which support one or more specified public charities or programs through an active grant-making program, as well as maintaining charitable income plans. The combined endowment assets of the JFNA system is in excess of \$14 billion and annual endowment grants from the participatory funds and other endowment assets is approximately \$1.5 billion, split between Jewish organizations and those of the wider charitable sector. The IRA Charitable Rollover is another relatively recent incentive added to the income tax code which has materially increasing giving to Federations throughout the country.

IRA Charitable Rollover: A qualified tax-free distribution from individual retirement accounts provision defined in Code section 408(d)(8) was added to the federal tax law by the Pension Protection Act of 2006. Unfortunately, the provision contained an expiration date of December 31, 2007, and, as such, has joined the growing list of so-called “tax extender” items that must be renewed by Congress. The current version of the IRA charitable rollover, *which expired on December 31, 2011*, permits individuals age 70½ to make tax-free charitable gifts of up to \$100,000 directly from their individual retirement account to eligible charities. Amounts rolled over are not taken into income by the IRA owner and are not eligible for a charitable contribution deduction. However, such rollovers qualify as an annual required minimum distribution from the owner’s IRA.

It is important to note that the IRA Charitable Rollover is one of the few provisions in the tax code that provides an incentive to give to charity to those taxpayers who do not itemize their deductions. As noted above, amounts that qualify for the IRA Charitable

Rollover do not qualify for a charitable contribution deduction. Such amounts, however, do not have to be taken into income, which can be equivalent to a charitable contribution deduction for the more than two-thirds of all taxpayers who do not claim itemized deductions.

Criteria for Evaluating Expiring Tax Provisions: JFNA applauds the Subcommittee on Select Revenue Measures for conducting the hearing on the framework for evaluating expiring tax provisions. We find much to agree with in the testimony provided by Dr. James White, Director of Tax Issues for the Government Accountability Office who outlined three major criteria for evaluating expiring tax provisions. In addition to the revenue impact, it is essential to judge tax provisions such as the “tax extenders” by criteria such as equity, economic efficiency and simplicity, transparency and administrability. Although it is important to measure the cost of revenue foregone for each provision, it is also essential to determine if the provisions are fair or equitable. Are similarly situated taxpayers treated equally under the provision? Furthermore, does the provision promote economic benefits to the society as well as foster growth? Is it comprehensible, and does it ease recordkeeping or filing burdens? Finally, does the provision make the tax system simpler? Does it lower compliance costs for taxpayers or ease the IRS burden in administering the tax laws?

Merits of the IRA Charitable Rollover: JFNA believes that in the six tax years in which it has been part of the Internal Revenue Code, the IRA Charitable Rollover has proven success as a tax incentive that has greatly increased charitable giving. In the words of Donald Marron, Director, Urban-Brookings Tax Policy Center, the provision has satisfied the “burden of proof” of demonstrating its merit. The existing IRA Charitable Rollover has been an overwhelming success for the charitable sector in general, and the JFNA system, in particular. The IRA Charitable Rollover helps charities provide needed social services at a time when there is both an increased demand and fewer resources available from government sources. In a relatively short period of time, Jewish Federations have received **more than \$30 million** in contributions from IRA charitable rollovers, through targeted campaigns, such as one to attract rollover gifts from

grandparents to support Jewish day schools by reducing tuition costs and funding operations. Charitable rollover gifts have also enabled Jewish Federations to accelerate capital campaigns to finance new construction projects, expand or fully-fund existing social services programs, among other worthwhile projects, at a time when other sources of charitable giving have been on the decline. In addition, many donors have taken advantage of the IRA Charitable Rollover provision to fund an endowment for their annual Federation campaign gift. These gifts are perhaps the most important as the annual Federation campaign represents the life-blood of giving to the JFNA system and the source of annual allocations to literally thousands of social service agencies throughout the country. Each year since the provision has been enacted and renewed, several large Jewish Federations have received rollover contributions in excess of \$1 million. Federations have come to rely on IRA Charitable Rollover gifts as an important source of annual budgeting for needed on-going operational costs.

When evaluated against the criteria described above, it can be seen that the IRA Charitable Rollover provides charities with a significant source of revenue without a large revenue cost to the Federal government. In addition, individuals who are over age 70 ½ are able to make gifts directly to a charitable institution without any adverse tax consequence, and in some cases, are relieved of filing additional tax forms such as the Form 1040 Schedule A for itemized deductions as well as Form 8283 for noncash charitable contributions in excess of \$500. Further, the funds that flow directly from retirement accounts are often used to pay salaries and other operating expenses for charitable organizations. It is important to remember that the nonprofit sector is a significant source of jobs in the U.S. economy. It is reported that over 1.6 million nonprofits in the U.S. employ over 13 million workers, which is almost 10 percent of the total workforce in the country. Nonprofits wages and benefits annually exceed \$670 billion and represent 9 percent of salaries paid in the country. The nonprofit sector accounts for almost 6 percent of the country's gross domestic product. Direct gifts from IRA Charitable Rollovers reduce the need for taxpayer recordkeeping and are easily administered by the IRS through existing reporting by investment brokerage firms and others that currently handle IRA accounts.

First JFNA Recommendation: Make the IRA Charitable Rollover permanent. We recommend that, at a minimum, the IRA Charitable Rollover be made a permanent part of the Federal tax code. We advance several arguments in favor of making the provision permanent:

1. The current law that allows the IRA Charitable Rollover to expire and be reenacted adds unnecessary confusion to taxpayers, their financial advisors, and the charities that can benefit from such transfers.
2. Because multiple parties are involved in any qualified charitable distribution under Code section 408(d)(8), (the IRA owner, brokerage firms and others that maintain or act as trustees of such accounts, and public charities that qualify to receive direct distributions) the need for permanence is magnified.
3. The interactions between qualified charitable distributions and the required minimum distribution requirements make it essential that taxpayers know the law with certainty. Potential confusion over the interaction of these two provisions can be exacerbated when Congress fails to extend the IRA Charitable Rollover provision before expiration and is forced to do so retroactively, as was the case in 2010 when the statute extending the provision was enacted in December retroactive to the prior January.

Second JFNA Recommendation: Expand current law to include provisions contained in the “Public Good IRA Rollover Act of 2011.” Bi-partisan legislation to make permanent and expand the provisions of the current law IRA Charitable Rollover has been introduced in the Senate and the House. S. 557, introduced by Sens. Schumer and Snowe, with 12 cosponsors, and H.R. 2502, introduced by Reps. Herger and Blumenauer and 18 cosponsors. The major provisions in the “Public Good IRA Rollover Act of 2011” would (1) make the rollover permanent; (2) remove the current \$100,000 annual cap on qualified charitable distributions; (3) allow donor advised funds, supporting organizations, and private foundations to receive qualified charitable distributions; and (4) provide IRA owners at age 59½ with a planned giving option such as using the rollover to fund a split-interest (life-income) gift through a charitable gift

annuity or charitable remainder annuity trust. Although JFNA urges Congress to enact the “Public Good IRA Rollover Act of 2011” as introduced, we wish to provide specific comments regarding two of its main provisions:

- **Allow donor advised funds, supporting organizations, and private foundations to receive qualified charitable distributions.** Over the past several decades, the JFNA system has been proud of the growth in charitable giving that has been generated through planned giving vehicles. Of special importance have been participatory funds, such as donor advised funds and supporting organizations, which are essential in creating a broad base of support for the Jewish community to fulfill its social services mission, especially in times of economic distress. Participatory funds have been an indispensable tool in encouraging intergenerational involvement in Jewish charity through family philanthropy. In addition to providing financial resources for critical human services in local Jewish and general communities, these charitable vehicles also advance the values and goals of the JFNA System through nurturing relationships between Jewish philanthropists and Federation lay and professional leadership as well establishing priorities that consider the future needs of the Jewish community.

Such participatory vehicles provide a reliable pool of dollars to fund a variety of social service activities, in particular support of a Federation’s annual campaign, which remains the most important fundraising activity carried on by the Federation movement each year. Permitting, indeed encouraging, participatory funds to exist for extended periods provide greater opportunities for sponsoring organizations such as Jewish Federations to build a collaborative philanthropic relationship with the donor and the donor’s family. One of the greatest strengths of the JFNA System lies in its unique ability to match donor’s interests with funding needs in the Jewish community. Because donor advised funds can continue for an extended period of time, including the lifetimes of the donor and spouse, heirs and additional successors, this

relationship continues to grow over time and succeeding generations of Jewish community leaders can be fostered. This provides the JFNA System with a valuable tool to educate future generations of donors so that they can become effective funders in the future. As the House Ways and Means Committee continues to consider tax reform options in general, and “tax extenders” in particular, JFNA urges that growth in participatory vehicles be allowed to flourish and urge that they be included in the definition of charities that are entitled to receive qualified distributions from IRA Charitable Rollovers.

- **Provide IRA owners at age 59½ with a planned giving option such as using the rollover to fund a split-interest (life-income) gift through a charitable gift annuity or charitable remainder annuity trust.** Expansion of the IRA Charitable Rollover to permit those age 59½ to fund life-income charitable gifts could also provide additional resources to America’s charities, as well as provide a safe and reliable return on investment for donors who chose this option. Gift annuities have a long history as a well-regulated and popular method of fundraising for charitable institutions. Existing state and federal regulations will assure that proper benefits accrue to both the charity and donor. Moreover, expansion of the IRA Charitable Rollover to cover such gift arrangements should not result in any additional revenue loss because the annual payments to donors would remain taxable at ordinary income rates.

The Importance of Tax Incentives in the Internal Revenue Code: Similar to many other large national charities, the JFNA system has a sophisticated fund raising operation as well as highly-organized procedures for allocating such collected monies to fund a broad range of social service programs in their communities. Perhaps the primary mission of JFNA is to assist Federations as they inspire Jews to fulfill their religious duty to be charitable by securing the financial and human resources necessary to care for those in need, rescuing Jews in danger, and ensuring the continuity of the Jewish people. This critical fundraising task is essential to provide the strategic resources and direction to help local Federations fulfill their individual and collective responsibilities to improve the

world, build community, and foster Jewish renaissance. As noted above, the two key elements of such fundraising is a highly-recognized annual campaign supplemented by a sophisticated planned giving operation that utilizes a number of established and highly-regulated charitable giving vehicles, including the IRA Charitable Rollover.

Because the JFNA system is one of the largest philanthropic networks in the nation, our perspective on charitable giving and the importance of tax incentives is grounded on years of experience. We see the impact of economic and tax factors on charitable giving every day. At a time when our social service partners are being asked to meet increasing demands for services and government funding at the federal, state and local level is shrinking, we know that charitable incentives in the tax code are more important today than ever.

JFNA applauds the House Ways and Means Committee and the Subcommittee on Select Revenue Measures for its deliberative process and year long study of the many issues which need to be considered in contemplating fundamental tax reform such as the issues raised by making “tax extenders” a permanent part of the tax code. JFNA remains committed to ensuring that federal tax policies continue to encourage private philanthropy and urge that the IRA Charitable Rollover be made permanent and expanded as outlined above.

I thank the Subcommittee for the opportunity to present this testimony. If you have any questions regarding this submission, please feel free to contact William C. Daroff, Vice President for Public Policy and Director of the Washington Office at 202-736-5868 or william.daroff@jewishfederations.org or Steven Woolf, senior tax policy counsel at 202-736-5863 or steven.woolf@jewishfederations.org

